

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CRIMINAL NO. : 05-1609

UNITED STATES OF AMERICA

v.

BOGDANS HVALEJS

DEFENDANT'S MOTION TO PRESENT A WITNESS BY TELEPHONE

The defendant, BOGDANS HVALEJS, moves this Honorable Court to permit him to present a witness, MARISSA HVALEJS, by telephone, pursuant to F.R.Civ. P. 43 (a) . The defendant asserts that there is good cause and compelling circumstances to allow this alternative.

The defendant is before this Court on a petition from the government of Latvia to return him to that country. He asserts that he may not be extradited on those offenses as charged, as they were previously resolved in Latvia. His mother's testimony is essential to his defense, as she is the person who made payments to resolve the cases. As she left Latvia in a hurry, she has no documents or receipts in lieu of her testimony. She presently lives in New York City. A draft of her anticipated testimony has been provided to the assistant United States Attorney. An affidavit which the defendant intends to submit along with the testimony has also been provided to the government, and is attached here .

The defendant has been determined to be indigent, pursuant to 18 U.S.C. § 3100, and cannot pay the travel expenses for his mother. His mother is also without funds to pay for travel and lodging. The defendant would have to request funds for this purpose. If travel monies were allocated, the arrangements would have to go through the Marshals' office which generally takes at least a week, and might not be possible to arrange in time for the hearing. (The attorney for the

defendant was only able to speak with the mother recently, due to scheduling conflicts with the Russian interpreter). As the affidavit demonstrates, the mother's testimony is narrow and focused and will not take a significant amount of time. The defendant asserts that the testimony by telephone in this circumstance is both practicable and reasonable, and the government will not be prejudiced.

The government has indicated that it would oppose the telephone testimony in lieu of personal appearance because the telephone will not be heard as well, and the record will not be as clear.

WHEREFORE, the defendant requests that this motion be granted.

Respectfully Submitted,

BOGDANS HVALEJS

By his attorney,

/s/ Lenore Glaser

Dated: December 9, 2005

Lenore Glaser, Esq.
25 Kingston Street, 6th Floor
Boston, MA 02111
(617) 753-9988
BBO # 194220

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AFFIDAVIT OF MARISSA HVALEJS

I, Marissa Hvalejs, being first duly sworn, depose and state :

- (1) My legal name is Marissa Hvalejs. I currently live in New York City, New York. I am a Russian citizen by birth and nationality. I am the mother of Bogdans Hvalejs.
- (2) Bogdans Hvalejs is a Russian citizen, although he was born in Riga, Latvia. His father is ByloRussian and lives in ByloRussia.
- (3) I know of three criminal cases involving my son.
- (4) In the first case, the break in of an apartment, he was under eighteen years of age, so he was not formally charged. Instead, we, the family paid the owner of the apartment who then reported she had no claims. I don't remember the exact amount, but we paid somewhat over one hundred latts.
- (5) I have no receipts, proof of payment, or documents from the Court. I left Latvia in a hurry.
- (6) The second case, involved a car and was resolved in the same way. I paid about seventy latts.
- (7) For the same reason, I have no receipts, proof of payment, or documents from the Court.
- (8) The third case was the personal possession of heroin. My son did use heroin. The amount here was small, empty bags. I don't know what happened in this case.

Signed under the pains and penalties of perjury this 12 day of December 2005.

/s/ Marissa Hvalejs
MARISSA HVALEJS